

IN THE SENATE

SENATE BILL NO. 1021, As Amended

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO THE UNLICENSED PRACTICE OF MEDICINE AND THE EMS SYSTEM; AMENDING SECTION 54-1804, IDAHO CODE, TO CLARIFY AN EXCEPTION AS IT PERTAINS TO SKI PATROLLERS WHO ARE MEMBERS OF THE NATIONAL SKI PATROL SYSTEM, INC., AND ARE TRAINED IN AND HOLD A CURRENT OUTDOOR EMERGENCY CARE CREDENTIAL AS ISSUED BY THE NATIONAL SKI PATROL SYSTEM, INC., UNDER CERTAIN CIRCUMSTANCES AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1804, Idaho Code, be, and the same is hereby amended to read as follows:

54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO UNLICENSED PRACTICE. (1) Under the circumstances described and subject in each case to limitations stated, the following persons, though not holding a license to practice medicine in this state, may engage in activities included in the practice of medicine:

(a) A medical officer of the armed forces of the United States, of the United States public health service, or of the ~~veteran's administration~~ United States department of veterans affairs, while engaged in the performance of his official duties;

(b) A person residing in another state or country and authorized to practice medicine there, who is called in consultation by a person licensed in this state to practice medicine, or who for the purpose of furthering medical education is invited into this state to conduct a lecture, clinic, or demonstration, while engaged in activities in connection with the consultation, lecture, clinic, or demonstration, so long as he does not open an office or appoint a place to meet patients or receive calls in this state;

(c) A person authorized to practice medicine in another state or country while rendering medical care in a time of disaster or while caring for an ill or injured person at the scene of an emergency and while continuing to care for such person;

(d) An extern, intern or resident who is registered with the board as provided in this chapter and while engaged in programs authorized pursuant to rules of the board or a physician assistant licensed by the board;

(e) A person authorized or licensed by this state to engage in activities which may involve the practice of medicine;

(f) A person engaged in good faith in the practice of the religious tenets of any church or religious beliefs;

(g) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;

(h) A person rendering aid in an emergency, where no fee for the service is contemplated, charged or received. This exception shall specifically include ski patrollers who are members of the national ski patrol system, inc., and are trained in and holding a current outdoor emergency care (OEC) credential, as issued by the national ski patrol system, inc., while rendering aid in accordance with the standards of training of such credential, where no fee for the service is contemplated, charged or received, and in the course of alpine, nordic or cross-country skiing and other recreational activities conducted in whole or in part at ski areas in the state of Idaho;

(i) A person administering a family remedy to a member of the family;

(j) A person who administers treatment or provides advice regarding the human body and its functions that:

(i) Does not use legend drugs or prescription drugs in such practice;

(ii) Uses natural elements such as air, heat, water and light;

(iii) Only uses class I or class II nonprescription, approved, medical devices as defined in section 513 of the federal food, drug and cosmetic act;

(iv) Only uses vitamins, minerals, herbs, natural food products and their extracts, and nutritional supplements; and who

(v) Does not perform surgery;

(vi) Requires each person receiving services to sign a declaration of informed consent which includes an overview of the health care provider's education which states that the health care provider is not an "M.D." or "D.O." and is not licensed under the provisions of this chapter.

(2) Except as provided in subsection (1) of this section, it shall constitute a felony for any person to practice medicine in this state without a license and upon conviction thereof shall be imprisoned in the state prison for a period not to exceed five (5) years, or shall be fined not more than ten thousand dollars (\$10,000), or shall be punished by both such fine and imprisonment.

(3) Except as provided in subsections (1) (a), (1) (b), and (1) (c) above, it is unlawful for any person to assume or use the title or designation "medical doctor," "medical physician," "osteopathic doctor," "osteopathic physician," "M.D." or "D.O." or any other title, designation, words, letters, abbreviation, sign, card, or device to indicate to the public that such person is licensed to practice medicine pursuant to this chapter unless such person is so licensed, and upon conviction thereof, such person shall be imprisoned not to exceed one (1) year, or shall be fined not more than three thousand dollars (\$3,000), or shall be punished by both fine and imprisonment.

(4) When a person has been the recipient of services constituting the unlawful practice of medicine, whether or not he knew the rendition of the services was unlawful, proof of the rendition of such unlawful services by the recipient or his personal representative in an action against the provider of such services for damages allegedly caused by the services constitutes prima facie evidence of negligence shifting the burden of proof to

1 such provider of unlawful services. The following damages in addition to any  
2 other remedies provided by law may be recovered in such an action:

3 (a) The amount of any fees paid for the unlawful services.

4 (b) Reasonable attorney's fees and court costs.

5 (5) The board shall refer all violations of this section made known to  
6 it to appropriate prosecuting attorneys. The board may render assistance to  
7 a prosecuting attorney in the prosecution of a case pursuant to this section.